request is that before this Bill is taken up for discussion, the hon. Minister should discuss it with all the national trade unions and then come up before the house. This is the only submission I wanted to make. The hon. Minister has not discussed this matter with the trade unions.

THE DEPUTY CHAIRMAN: He is only introducing it. It has not come up for consideration.

SHRI JIBON ROY: I want that the Minister should discuss the matter with the national trade unions.

THE DEPUTY CHAIRMAN: Mr. Minister, whatever apprehensions he has expressed before you, please take care of it and when this Bill comes up for discussion in the house, please come back with those...

SHRI JAGDISH TYTLER: I would do that, Madam.

THE DEPUTY CHAIRMAN: Now, the question is:

> "That leave be granted to introduce a Bill to provide the inapplicability of the Dock Workers (Regulation of Employment) Act, 1948 to dock workers of major port trusts and for matters connected therewith or incidental thereto."

The motion was adopted.

SHRI JAGDISH TYTLER: Madam, I introduce the Bill.

THE SIXTH SCHEDULE TO THE CONSTITUTION (AMENDMENT) BILL, 1995

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P.M. SAYEED): Madam, I beg to move:

> "That the Bill further to amend the Constitution of India in its application to the State of Assam, be taken into consideration."

Madam, in recognition of the need to allow the tribal areas to be developed in the light of the genius of the different tribes inhabiting the hilly areas, the framers of the Constitution, after careful deliberations in the Constituent Assembly, provided for Autonomous District Councils, under the Sixth Schedule of the Constitution. These Autonomous District Councils were an innovative Constitutional arrangement for devolution of powers to the tribal people by giving them a decisive role in their development, through the instrumentality of grassroot planning.

The Autonomous District Councils and the Regional Councils have powers to make laws in the field of land, forest, shifting cultivation, irrigation, town and village administration, and social customs like marriage, divorce, inheritance, etc.

The Sixth Schedule was, initially, made applicable to three districts each in Assam, Meghalaya and Mizoram. Subsequently, in 1984, the Sixth Schedule was also extended to the tribal areas of Tripura, and the Tripura Tribal Areas Autonomous District Council was formed. Thereafter, the Sixth Schedule was further amended in 1988, insofar as its applicability to the areas of Mizoram and Tripura was concerned. Through these amendments, the Governors of these States were given more discretionary powers in respect of certain functions of the ADCs, with a view to minimizing the overall control of the State Governments on the ADCs. These amendments were, however, not applied to Assam and Meghalaya.

Representative organizations of Karbi Anglong and North Cachar Hill districts in Assam, which are governed under the aegis of the Sixth Schedule to the Constitution, have been feeling dissatisfied with the quantum of autonomy available under the said Schedule. They have, therefore, been raising demands for more autonomy. A

series of talks were held between the State Government and the representatives of some of these organizations and, finally, on 1st April 1995, a Memorandum of Understanding was signed between the Government of Assam and some representatives of these organizations.

In pursuance of the aforesaid MOU, it has been agreed to give additonal executive and legislative powers to the two Councils. It was further agreed to redefine the exercise of discretionary powers by the Governor of Assam in respect of matters specifically indicated or entrusted to the Councils in the manner provided for in paragraph 20-BB of the Sixth Schedule. The Governor of Assam will, under the proposed amendment, be required to consult the Autonomous Councils concerned before exercise of his discretionary powers in respect of matters identified.

The signing of the MOU has been largely welcomed by the tribal population of these two districts. The agreement was hailed as a step in the right direction largely by the tribals like Karbis, Dimasas, Hmars and Kukis of both the districts. Festivities were held at various places to celebrate the signing of the Memorandum of Understanding.

A major consideration in the signing of the MOU has been to fulfil the aspirations of the tribal people of these two districts within the framework of the Sixth Schedule without affecting the integrity of the State of Assam. The Bill seeks to give greater autonomy to the two Autonomous District Councils in Assam. It provides for exercise of additional legilative powers. It further provides for exercise of discretionary powers by the Governor as in the case of the Councils in Mizoram and Tripura. And it provides for consultation with the Councils in exercise of such powers.

In the above background, I move for consideration and approval of the House, the Sixth Schedule to the Constitution (Amendment) Bill, 1995.

The question was proposed

THE DEPUTY CHAIRMAN: When the matter was raised in the Business Advisory Committee for allocation of time for the Sixth Schedule to the Constitution (Amendment) Bill, 1995, it was discussed and all the Members and leaders present in the meeting decided that there would be no time allocated for it and it won't be discussed on the floor of the House. But Mrs. Sushma Swaraj has got some clarifications to seek regarding certain points she has in mind. So, we discussed with the Home Minister, and he said okay only if it is a clarification which she wants to seek. So I am allowing her to seek a clarification and not a speech. ...*(Interruptions)*... If you want a clarification, I will allow because nobody has objected and nobody is rejecting this Bill. Anyone who has some specific point for clarification can raise it. Otherwise if we open it up for discussion, then the entire North-East will be discussed. Here we are only specifically discussing this particular aspect of the Bill. If you have any specific point regarding this Sixth Schedule to the Constitution (Amendment) Bill, 1995, you can ask the Home Minister and he will reply.

SHRI P. UPENDRA (Andhra Pradesh): Madam, I have a point. Since it requires a special majority, kindly indicate the time of voting on it.

THE DEPUTY CHAIRMAN: It does not require a special majority. It is not an amendment to the Constitution. The second one perhaps is. This as such is not an amendment to the Constitution.

एक माननीय सदस्य: यह कांस्टीट्यूशनल अमेंडमैंट है।

THE DEPUTY CHAIRMAN: The heading says so but it is not.

श्रीमती सुषमा स्वराज (हरियाणा): नहीं मैड़म, यह कांस्टीट्यूशनल अमेंडमैंट है।

उपसभापति: अच्छा हो जाएगा। आप अपना बोलिए।

There are different opinions on it.

श्रीमती सुषमा स्वराज: महोदया, आपने सही फरमाया कि पूरे सदन ने इस बिल का विरोध न करने का फैसला लिया है। मैं बिल का विरोध करने के लिए खड़ी नहीं हुई हूं बल्कि कुछ टिप्पणियों के साथ इस बिल का समर्थन करना चाहती हूं और मेरे कुछ स्पष्टीकरण है जो मैं गृह मंत्री महोदय से लेना चाहती हूं। महोदया, हमारे संविधान में कुछ अनुसूचित क्षेत्रों और कुछ जनजातीय क्षेत्रों के लिए विशेष प्रशासकि व्यवस्था की गयी है। संविधान का अध्याय 10 इसी विषय से संबंधित है और संविधान की धारा 244, उपधारा-2 में यह जिक्र किया गया है कि छठी सूची में जो विषय लिखे गये हैं, असम, मेघालय, त्रिपुरा और मिजोरम के कुछ जनजातीय क्षेत्रों में वह छठी सूची लागू होगी। इस छठी सूची के तहत कुछ विषयों का उल्लेख किया गया है जिनके ऊपर वह स्वायत परिषदें, जो जिला परिषदें या क्षेत्रीय परिषदें हो सकती हैं, जो छठी सूची के तहत बनायी जाएंगी, इस पर कानून बना सकती हैं। यह बिल जो आप आज लेकर आए हैं, उसमें जो छठी सूची में पैरा-तीन में विषय दिये हुए थे, उसमें आप एक और पैरा जोड़ रहे हैं, पैरा तीन-ए और उसमें आपने 15 नये विषय डाले हैं और वह विषय बहुत महत्वपूर्ण हैं।

The subjects are:
industries;
communications;
preservation, protection and improvement of stock and prevention of animal dieases;
primary and secondary education;
agriculture;
fisheries;
water supplies, irrigation and canals;
social security and social inurance;
flood control schemes;
theatre and dramatic performances;
public health and sanitation;
minor irrigation;
trade and commerce;
libraries, museums; and
alienation of land.

यानी महोदया, अगर आप इस सूची को देखें तो लगभग तमाम वह विषय हैं जो राज्य सरकारों को दिये जाते हैं, कॉनकरैंट लिस्ट के तहत बनाने के लिए या राज्य सूची के तहत बनाने के लिए। यानी डिस्ट्रिक्ट काउंसिल, जो जिला परिषदें आज तक विद्यमान थीं, उनको बहुत ज्यादा दायरा बढ़ाकर या आटोनामस काउंसिल हम बनाने जा रहे हैं, मैं इसका स्वागत करती हूं। स्वागत इसलिए करती हूं कि वहां के जो ट्राइब्स थे चाहे वह कार बी आंग लोंग है या वह नॉर्थ कचार हिल्स वाले हैं, उनकी यह आकांशाएं थीं और इसी के लिए उन्होंने आपके साथ एम०ओ०यू० साइन किया था। उनकी जनभावनाओं को प्रतिनिधित्व देतु हुए आपने यह बनाने की बात की है लेकिन मैं आपसे पूछना चाहती हूं कि विषयों का अधिकार तो आपने इतना बड़ा दे दिया लेकिन क्या इसके लिए अलग से बाकी जिला परिषदों से ज्यादा धन का प्रावधान भी आपने किया है? क्योंकि यदि धन का प्रावधान आप नहीं करेंगे और विषयों का अंबार लगा देंगे, जैसे मैंने कहा कि राज्य सरकार की तरह कम्पलीट विषय आपने इन आटोनॉमस काउंसिल को दे दिये हैं जिसके ऊपर वह अपना कानून बना सकते हैं, अलग से इंडस्ट्री की बात कर सकते हैं, अलग से अपना कानून ट्रेड ऑफ कामर्स के बारे में बना सकते हैं लेकिन आपने इसके लिए क्या धन का प्रावधान किया है? वरना जब मैं यह लिस्ट पढ़ रही थी तो मुझे तो पंजाबी का एक लोकगीत याद आ रहा था, शायद आप लोगों ने सुना हो जिसमें पत्नी अपने पति से कहती है कि एक पैसा ले जा मेले में ओर इतनी लम्बी लिस्ट दे देती है हरियां बोतलां, पीलियां बोतला, काके दा छनकना, मेरीयां चूड़िया, ये सब ले आइयो जी और गड्डी चढ़ आ जाएयो जी, थेला मोड़ ले आइयो जी....। एक पैसा देकर कहती है कि सारी चीजें ले आना और थेला वापिस भी ले आना। तो इतना सारा अम्बार विषयों का आपने दे दिया लेकिन धन का प्रावधान आपने कितना किया है, यह मैं जानना चाहती हूं।

दूसरी बात आपने इसी के सब पैराग्राफ-2 में कहा है कि जो भी विषय लिस्ट-3 में आते हैं वह अब गर्वनर की सहमति नहीं, प्रज़ीडैंट की सहमति के लिए आएंगे, यह सही भी है क्योंकि कॉन्करेंट लिस्ट का अगर कोई भी सबजैक्ट है, वह सैंटर से मुखालिफ बिल बन गया तो बन नहीं सकता, इसे प्रेजीडैंट की सहमति की जरूरत है। लेकिन आपने कहा है....

> "... under this paragraph shall, in so far as they relate to matters specified in List III of the Seventh Schedule, be submitted forthwith to the Gover-

nor who shall reserve the same for the consideration of the President."

मैं आपको बताना चाहती हूं मंत्री जी कि ऐसे विषयों पर स्थानीय राजनीति बहुत प्रभावित करती है। पहले भी जो विषय गवर्नर तक दे दिये जाते थे वे विषय रोक दिये जाते थे, वह बिल पास नहीं होता था। यह जो आपने इस के अंदर प्रावधान डाला है यह रिडन्डेन्ट हो जायेगा अगर इसमें समयावधि तय नहीं करेंगे। आप को इसमें कोई समय सीमा तय करनी चाहिए कि गवर्नर इससे ज्यादा समय तक इस विषय को रिजर्व अपने पास नहीं रख सकता। यह आपको कहना चाहिए कि जब कौंसिल ने इसे बनाया है तो बिल को राज्यपाल राष्ट्रपति की सहमति के लिए दे दे और इतने समय के भीतर भीतर राज्यपाल अवश्यमेव उस विषय को राष्ट्रपति की सहमति के लिए भेज देगा वरना जिस तरह से इस कुप्रथा को आप समाप्त करना चाहते हैं, वह कुप्रथा बनी रह सकती है। इसलिए यह प्रोविजिन रिडन्डेन्ट न हो जाए इसके लिए समयावधि डाल दें तो ज्यादा अच्छा रहेगा।

दूसरी बात यह है कि आपने 20बी ए नई डाली है। पहले से एक प्रावधान है 20बी बी में, जिसको मैं पढ़ कर सुनाना चाहती हूं। 20 बी बी में आपने यह लिख रखा है कि अगर राज्यपाल अपनी डिस्क्रिशनरी पावर इस्तेमाल करना चाहे तो उसको कोई सलाह लेने की जरूरत नहीं, कोई कंसलटेशन करने की जरूरत नहीं। लेकिन इसमें आपने प्रावधान संशोधित करके बेहतर बनाया है और मेन्डेटरी किया है कुछ प्रोविजन्स को। जहां आपने इफ ही थिंक्स इट नेसेसरी पैरा 20बी बी में जो था इसको आपने निकाल दिया है। आपने यह कहा कि अगर गवर्नर को अपनी डिस्क्रिशनरी पावर को एक्सरसाइज करना है तो जैसे वह कौंसिल आफ मिनिस्टर्स से कंसलटेशन करेगा उसी तरह से अटोनोमस कौंसिल से भी कंसलटेशन करना होगा। यह बेहतर प्रावधान है जिसका मैं स्वागत करती हूं।

मेरा आपसे यह कहना है कि छठी सूची के तहत जिला परिषदें पहले से चल रही हैं, जैसे मिजोरम में तीन जिला परिषदें पहले से हैं—पोई है, लाखेर है और चकमा है। यह जो संशोधित बेहतर प्रावधान है यह केवल इन दोनों नव-गठित जिला परिषदों पर ही क्यों लागू हो? क्यों नहीं आप इन प्रावधानों को पहले से बनी हुई जिला परिषदों पर लागू करते? अगर वहां भी राज्यपाल अपनी डिस्क्रिशनरी पावर को एक्सरसाइज करने से पहले वहां की डिस्ट्रिक्ट कौंसिल से भी कंसल्ट कर लें तो क्या बुरा हो जायेगा। अच्छी तरह से अपनी डिस्क्रिशनरी पावर को एक्सरसाइज कर सकेंगे। इसलिए मैं आप से कहना चाहती हूं कि इस बिल में जो आपने संशोधित धाराएं डाली हैं बेहतरी की तरफ डाली है। उन प्रावधानों को छठी सूची के तहत पहले से बनी हुई जिला परिषदों पर भी लागू करने का अमैंडमेंट लेकर आयें तो अच्छा होगा। एक बात तो यह कहना चाहती हूं। दूसरी बात मुझे यह कहनी है कि छठी सूची के बारे में संविधान निर्माताओं ने आखिर सोचा ही क्यों था कि कुछ जनजातीय क्षेत्रों के बारे में विशेष प्रशासनिक व्यवस्था की जाए। यह सोच मन में क्यों आई? यह सोच इसलिए आई कि दो प्रमुख कारण इसके पीछे रहे।

पहला कारण यह था कि इन क्षेत्रों का विकास हो और दूसरा कारण यह था कि इन क्षेत्रों की सांस्कृतिक पहचान बनी रहे। ये दो प्रमुख कारण थे। लेकिन आज जब इस संविधान को पारित हुए 45 वर्ष हो गये 1950 में यह संविधान लागू हुआ था तो आज 45 वर्ष के बाद मंत्री जी मैं आप से पूछना चाहूंगी कि क्या एक बार भी सरकार ने इस बात का आंकलन किया है कि इन जिला परिषदों को गठित करने के बाद इन दो लक्ष्यों की पूर्ति हमने कहां तक की? क्या इन क्षेत्रों में वाकई विकास हुआ है? क्या इन क्षेत्रों ने अपनी सांस्कृतिक पहचान बनाए रखी है? जहां तक विकास का ताल्लुक है मैं आपको बताना चाहूंगी कि जितना विकास के लिए धन यहां से दिया जाता है वह कंसोलिडेटिड फंड आफ इंडिया से दिया जाता है और कंसोलिडेटिड फंड आफ इंडिया से दिये जाने के बाद एक मेन्डेटरी प्रोविजन है। उस मेन्डेटरी प्रोविजन को मैं पढ़ कर सुनाना चाहती हूं। छठी सूची के पैरा 7 का उप पैरा 3 और चार को देख लिया जाए। पैरा तीन कहता है:

> "The accounts of the District Council or, as the case may be, the Regional Council shall be kept in such form as the Comptroller and Auditor General of India may, with the approval of the President, prescribe."

यानी कम्पट्रोलर एंड आडिटर जनरल वह तरीका तय करेंगे जिससे डिस्ट्रिक्ट कौंसिल के एकाउंट को रखा जायेगा और पैरा 7 का उपपैरा 4 सबसे ज्यादा इम्पोर्टेन्ट है। मैं आपका ध्यान इस ओर भी दिलाना चाहूंगी:

"The Comptroller and Auditor General shall cause the accounts of the District and Regional Councils to be audited in

such a manner that he may deemfit and the Report of the Comptroller and Auditor General shall be submitted to the Governor, who shall cause them to be laid before the Council." यानी एक मैनडेटरी प्रोविजन है जिसके अन्तर्गत सी०ए०जी० के महालेखाकार उन डिस्ट्रिक्ट कौंसिल्स का आडिट करवायेंगे और आडिट करवाने के बाद गवर्नर को रिपोर्ट देंगे और गवर्नर उनकी रिपोर्ट को परिषद् के सामने रखेगा। मेरा सीधा सा सवाल आपके सामने है कि जो जिला परिषदें छठी सूची के तहत बनी हुई हैं क्या कभी सी०ए०जी० ने उनका आडिट करवाया है? क्या कभी सी०ए०जी० की रिपोर्ट गवर्नर को दी गयी है? क्या गवर्नर ने उन रिपोर्टों को परिषदों के सामने रखा? मेरा सीधा सा सवाल आपसे है। आज वर्ष 1995-96 चल रहा है। क्या 1992-93 की आडिट रिपोर्ट हो गयी है? क्या एकाउंट आडिट हो गया है? अगर नहीं तो इस मैनडेटरी प्राविजन का उल्लंघन क्यों हो रहा है? यह इसलिए क्योंकि जो धन विकास के लिए दिया जा रहा है वह विकास के नाम पर भ्रष्टाचार के अंदर बह रहा है। आप जाकर वहां पहुंच जाइए, इतना पैसा देने के बाद भी विकास का एक दृश्य आपको इन जिला परिषदों में देखने को नहीं मिलेगा। इसलिए मेरा सुझाव है मैडम, क्योंकि कम्पट्रोलर एंड आडिटर जनरल इसका आडिट करता है, पैसा कंसोलीडेटेड फंड से जाता है, तो इसमें आप एक अमेंडमेंट करें कि यह रिपोर्ट गवर्नर और परिषद् को न प्रस्तुत की जाए बल्कि पार्लियामेंट के सामने इन परिषदों का आडिटेड एकाउंट रखा जाए और संसद स्वयं देखे कि वाकई जिला परिषदों को जो पैसा दिया गया है वह किस-किस मद के तहत खर्च हुआ है, वहां पर विकास हुआ है या नहीं हुआ है। जब तक यह तरमीम आप नहीं करेंगे, जब तक संसद अपनी जिम्मेदारी नहीं लेगी, जब तक भारत की पार्लियामेंट के सामने इन डिस्ट्रिक्ट का एकांउट आडिट होकर नहीं आएगा, तब तक यह जो रस्म निभाई चल रही है, यह ऐसी ही चलती रहेगी। आज पूर्वोत्तर में इतना पैसा देने के बावजूद भी विकास नहीं हो पाया है और विकास के अभाव में वहां पर अलगाववाद पनप रहा है। इसलिए मेरा सुझाव छोटा जरूर है मगर यह बहुत महत्वपूर्ण है कि इसका आडिटेड एकाउंट पार्लियामेंट के सामने पेश किया जाना चाहिए।

इसी तरह से जो दूसरा मैंने प्वाइंट कहा, सांस्कृतिक पहचान, सोशल कस्टम्स को बनाये रखना यह इन जिला परिषदों की जिम्मेदारी है। लेकिन आप जानते हैं कि कितने बड़े पैमाने पर पूर्वोत्तर में धर्मान्तरण चल रहा है। हमारा लक्ष्य था इनकी संस्कृति की पहचान बनाए रखना, इनकी कल्चरल आइडेंटिटी को बनाये रखना, लेकिन बहुत बड़े पैमाने पर पूर्वोत्तर राज्यों में धर्मान्तरण हो रहा है और सरकार आंखें मूंदी बैठी है। इसलिए मैं आपसे कहना चाहूंगी कि आज यह वक्त आया है जब कि इस बिल के माध्यम से मैं आपको चेताना चाहती हूं, आपको जगाना चाहती हूं कि कम से कम आज तो, संविधान के लागू होने के 45 वर्ष बाद आप इसकी समीक्षा कर लीजिए कि जिन लक्ष्यों को सामने रखकर डिस्ट्रिक्ट कौंसिलों को गठन किया गया था उन लक्ष्यों की पूर्ति हम कहां तक कर पाए हैं। ये मेरे छोटे-छोटे दो सुझाव हैं अगर आप उन पर अमल कर पायेंगे तो मुझे लगेगा कि जला परिषदों का गठन रस्मी बनकर नहीं रह जाएगा बल्कि जिन उद्देशों की पूर्ति के लिए जिला परिषदों को बनाया गया है, उन उद्देशों की पूर्ति हम कुछ मायने में कर सकेंगे, इतना ही मुझे कहना था। आपने मुझे समय दिया, बी०एस०सी० के निर्णय के बावजूद, इसके लिए मैं आपकी बहुत धन्यवादी हूं।

SHRI BHUBANESWAR KALITA (Assam): Madam Deputy Chairman, I welcome the decision of the Government to bring forward the Sixth Schedule to the constitution (Amendment) Bill, 1995, in its application to the State of Assam. Madam, the Government is conscious about the development and progress that is being made in the tribal areas of Assam and to give them more teeth, to give them more powers and to make them more effective. This Schedule has been extended to that District. There is already an Autonomous District Council functioning there effectively. Because of some understanding and agreement with the Government and keeping in view the aspirations of the tribal people of Assam, Departments with more powers have been handed over to those Autonomous Councials. Madam, the State Government is also conscious of the rights of the Tribal people and the development of the Tribal areas in Assam. About three or four Autonomous Councils have been constituted keeping in view the aspitrations of other tribal communities of Assam.

3 P.M.

Madam, Assam has always been a State of culture and integrity. Tribals, non-tribals, tea-garden labour and minorities together have made an integrated society in that State. In that society, everybody has his scope and his ways of fulfilling his aspirations. As a fulfilment of that aspiration, the Tribal Councils have been constituted and by this Bill, the Sixth Schedule is being extended to the Karbi anglong District which is already having an Autonomous District Council. Giving them more departments, giving them more powers to decide about their development activities, to retain their culture, to protect their culture, is a very good step and I welcome the step taken by the Central Government by means of this Bill.

I have only one clarification to seek. As you know, it is a mixed population everywhere, in every district of Assam. Somewhere, there are tribals; somewhere, there are non-tribals; somewhere, they are mixed. Most of the districts have mixed population. So is the Karbi Anglong District where tea-garden labour, non-Karbis and other communities live peacefully. But with the extension of the Sixth Schedule there, there is some apprehension. I hope the Minister will take some measures, will clarify the position and remove the apprehension about the safety, protection, that will be given to the non-Karbis in that district. I hope the Minister will clarify this point while replying. Thank you.

SHRI W. KULABIDHU SINGH (Manipur): Madam Deputy Chairman, I have only a few observations to make and clarifications to seek. We have all along been trying for an enlargement of the powers of the District Councils. When the Constitution (Seventy-Second) and Constitution (Seventy-Third) Amendment Bills were passed, I had an occasion to speak for the enlargement of the powers of the District Councils. I even pleaded for an extension of the spirit of the Sixth Schedule to the Hill Districts of the State of Manipur. I wish in this Bill that extension of the spirit of the Sixth Schedule was included. My point is that the enlargement of the powers of the District Councils is a must. That is very vital. While in this Bill, there is an enlargement of a few items of power of the District Councils, the reservation of one-third seats for women in the District Councils of those areas, etc. are not to be found. Of course, I am subject to correction. These provisions should also have been included.

While speaking about the enlargement of the powers of the District Councils, I also want to express a reservation regarding the management of forests. In the entire Sixth Schedule of the Constitution, as applied in the State of Assam, the management of forests is given to the tribal people. that includes both hills tribals and plains tribals. I want to draw a distinction between the tribal people of the plains and the tribal people of the hills. I want to have certain restrictions on this free-hand utilisation of the forest wealth by the tribals. It is very essential for environment protection. In the hill areas, when deforestation takes place wildly, floods occur and havoc is created.

So, there should be some limitation about the use of the forest and its products. The forest produce can be utilised but there should be some restrictions on the felling down of trees and the District Council should not be given a free hand. When once I pleaded for reservation regarding the wild utilisation of the forest produce and felling down of trees, some of my tribal colleagues got irritated.

Another point is regarding giving employment to the economically backward and poor tribal people. Some alternative arrangement should have been

made before hand for giving employment to those poor tribal people. They should be stopped from felling down trees wildly irrespective of environmental considerations. I want certain reservation regarding wild utilisation of the forest produce and felling down of trees. This limitation, which is not found in the original Sixth Schedule to the Constitution, should also be there.

Now, I want to make another point regarding the fund. Shrimati Sushma Swaraj has spoken about the financial powers. Now, sometimes, the fund-raising legislation regarding the realisation of tax and raising of money, does not give large powers to the District Councils. Some more powers should have been given to the District Councils for resource mobilisation. That is another observation which I would like to make.

Lastly, I would like to mention that I have already spoken about the reservation of seats for women in the District Councils, the rest of the provisions of the proposed amendment are, by and large, good and I support them. With these words, I conclude my speech.

SHRI HIPHEI (Mizoram): Madam, I want to seek two or three clarifications. According to paragraph 2 (6A) : "The elected members of the District Councils shall hold office for a term of five years from the date of appointment for the first meeting of the Council after the General Elections to the Council unless the District Council is dissolved." Now, paragraph No. 16 refers back to paragraph No. 14. According to paragraph No. 14 : "An Enquiry Commission has to be appointed and A District Council can only be dissolved on the recommendation of the Enquiry Commission." This is, Madam, to me, undemocratic. The head of the District Council is called the Chief Executive Member. Even the CEM does not enjoy the majority of the members in the House. It cannot be dissolved unless an Enquiry Commission is appointed under paragraph 14. So, I would request the Minister to explain this provision.

The second clarification is, now the nominated memebrs shall hold office at the pleasure of the Governor. I do not know whether this provision will also apply to the nominated Members to Lok Sabha and Rajya Sabha. If it is not, why should they hold office at the pleasure of the Governor? Here the pleasure of the Governor means the pleasure of the State Government. So, once a member is nominated to the District Council, why should he work at the pleasure of the State Government? Once he or is nominated, let him or her remain there for the rest of the term.

In paragraph 6(2) it is stated: "The Government may, with the consent of any District Council, entrust either conditionally or unconditionally, to that Council or to its officers functions in relation to agriculture, animal husbandry, community projects, cooperative societies, social welfare, village planning or any other matter to which the executive power of the State extends."

The very last sentence "to which the executive power of the State extends" has been amended as "to which the District Council has power to make laws." Madam, instead of amending the provisions of the Sixth Schedule of the Constitution, these two lines can be added, *viz.* "or any other matters to which the executive and legislative power of the State extends." If those two or three lines are added, the State Government can give any power, whether it is legislative or executive, to the District Council, without coming to Parliament for an amendment. So, all these points may kindly be borne in mind when the Minister gives his reply. Under the Sixth Schedule, today we have nine Autonomous District Councils throughout the country and those Autonomous District Councils are having different powers. They are not equal. Those it is

an elected body, it does not function as other elected bodies like State Legislatures and Parliament. So, Nominated Members should be allowed to function for the rest of the term and the District Council can also be dissolved without appointment of an Inquiry Commission. It can only be dissolved on the recommendation of the Inquiry Commission, according to paragraph 14. So, those points may kindly be kept in mind. On the recommendation of the Chief Executive Member it can be dissolved like Parliament and other Legislatures.

SHRI S. MUTHU MANI (Tamil Nadu): I thank you, Madam, for providing me an opportunity to speak. Madam, I rise to speak on the Sixth Schedule to the Constitution (Amendment) Bill, 1995. As far as fulfilling aspirations of the minority tribals of Karbi Anglong and North Cachar Hills Districts of Assam is concerned, I am happy that their sentiments have been respected. While additional subjects like indstries, communications, agriculture, social security, etc. are being entrusted to the newly proposed North Cachar Hill Autonomous Council and Karbi Anlong Hill Autonomous Council, it is mandatory for the Governor to consult the Authonomous Councils in the exercise of his discretionary powers. This is being taken care of by insertion of new clause 20BA. Madam, this is a welcome decision because the hon. Minister is aware that the Governors have become an impediment in the administration of the State affairs. I am happy that the Centre has realised this fact and that is why they have thought it necessary to insert this clause to see that that the Governor does not function against the wishes of the people.

I take this opportunity to request the hon. Home Minister to follow the accepted convention of appointing Governors in consultation with the Chief Minister of the State concerned. The Governor has to be a person of unquestionable integrity, who places the welfare of the State above everything else. But we are facing an unfortunate situation wherein a disgruntled politician of the ruling party at the Centre is thrust upon an Opposition-ruled State to brow-beat a duly elected Government. He functions as an extra-constitutional authority against the interest of that very State, which is footing the bill for all his luxuries. *(Interruptions)*...

SHRI JOHN F. FERNANDES (Goa): Madam, he is off the track. He is speaking on the conduct of the Governors. This should not go on record. *(Interruptions)*...

SHRI S. MUTHU MANI (Tamil Nadu): This is an occasion when I want to request the Centre to go by convention. I know the difference between the powers of A-Grade State Governors and the Governors in States like Assam and others. *(Interruptions)*...

THE DEPUTY CHAIRMAN: What are you speaking on?

SHRI S. MUTHU MANI: This is my submission, Madam. *(Interruptions)*...

SHRI G. SWAMINATHAN: He is speaking generally about Governors, not about any particular Governor. *(Interruptions)*...

SHRI S. MUTHU MANI: I am not blaming anybody individually. This is my submission. *(Interruptions)*...

SHRI G. SWAMINATHAN (Tamil Nadu): He is only revising what the role of the Governor, according to the Sarkaria Commission Report, is. *(Interruptions)*...

SHRI S. MUTHU MANI: This is a good occasion when I can draw the attention of the Centre, through you, Madam, *(Interruptions)*...

SHRI G. SWAMINATHAN: There is nothing objectionable, Madam. *(Interruptions)...*

THE DEPUTY CHAIRMAN: Let me deal with him. Mr. Swaminathan, I know that you are very knowledgeable about every thing. But let me get educated by what the Member is talking about. Mr. Muthu Mani, ... *(Interruptions)...*

SHRI S. MUTHU MANI: Madam, I am going to conclude.

SHRI G. SWAMINATHAN: You allow him to conclude, Madam. *(Interruptions)...*

THE DEPUTY CHAIRMAN: Just one minute. *(Interruptions)...* Just one minute. What is the specific commitment? *(Interruptions)...* Just one minute. When we speak in this House, what do we speak on? When a Minister moves a motion on a particular subject, we speak on the subject. *(Interruptions)...*

SHRI S. MUTHU MANI: I want to make a submission relating to the subject. *(Interruptions)...*

THE DEPUTY CHAIRMAN: Please, one minute. Please listen to me. It was decided in the Business Advisory Committee that there was going to be no discussion. It is on the request of Shrimati Sushma Swaraj, especially when she said that she had gone through the Bill and she had some specific clarifications to seek, which she raised in the House, and two or three Members from the North-East, who have very specific issues relating to the States which they belong to, we deviated from the decision of the Business Advisory Committee to allow the Members to seek their clarifications. We do not get up in this House and I am in my right, if any Member goes beyond a certain point and if he is talking irrelevant thing, to cut him short any time.

SHRI S. MUTHU MANI: I am not going into irrelevant things.

THE DEPUTY CHAIRMAN: It is irrelevant, if you talk about the Governors when you speak on this Sixth Schedule to the Constitution (Amendment) Bill. *(Interruptions)...* It is irrelevant. Please sit down *(Interruptions)...*

SHRI S. MUTHU MANI: Only one minute, Madam.

THE DEPUTY CHAIRMAN: No. Even a minute's irrelevance in this House cost money to the exchequer. *(Interruptions)...*

SHRI S. MUTHU MANI: It is addressed to the hon. Home Minister, Madam. *(Interruptions)...*

THE DEPUTY CHAIRMAN: No, it is not that. *(Interruptions)...*

SHRI G. SWAMINATHAN: According to the Member, it is not irrelevant. He is just concluding, Madam.

THE DEPUTY CHAIRMAN: Mr. Swaminathan, you had been the Vice-Chairman in the State. I don't know how you functioned there. But in this Parliament irrelevance has to be decided by the Presiding Officer and in this case I have seen that you are on a specific subject and I feel the Governors are not discussed here. We are not discussing the Governors. *(Interruptions)...*

SHRI S. MUTHU MANI: I am not mentioning any particular Governor, Madam. I am talking generally to draw the attention of the Centre. *(Interruptions)...*

THE DEPUTY CHAIRMAN: No, we are not discussing the Governors. *(Interruptions)...*

SHRI S. MUTHU MANI: I am going to conclude, Madam. I will appeal to the hon. Home Minister to assure us....*

THE DEPUTY CHAIRMAN: No, no. If you want it to become part of the record, I am not allowing it to go on record. It is not relevant to the Bill which

we are discussing. No relevance at all. Please take your seat. *(Interruptions)*...

SHRI S. MUTHU MANI:*

THE DEPUTY CHAIRMAN: It is not going on record. Please sit down. *(Interruptions)*... It is not going on record.

SHRI S. MUTHU MANI:*

THE DEPUTY CHAIRMAN: Mr. Muthu Mani, please sit down. It is not going on record. *(Interruptions)*... Mr. Jaipal Reddy, just a few minutes back you were not in the House. One Member got up and passed certain comments on the Chair, whoever was in the Chair, in my absence. *(Interruptions)*... Mr. Muthu Mani, please sit down. It is a very unruly behaviour. I am sorry.

But it is a comment on the Chair that the Chair does not control the Members. The hon. Members who come to this House can be very well elected to this Chair or can be nominated as the Vice-Chairman—anyone of you. You are more efficient than anyone of us. But, if a Member gets up and says, "We are not doing our duty as Vice-Chairman or Chairman," it is bad. Don't you think that it is the duty of the Members to abide by certain rules and procedures of this House? If the Members make noise and they don't talk relevant things, the Chair will have to stop them and Members also should stop themselves. If there is any other occasion which is relevant to your subject, I will permit you. But, why do you want to bring in Tamil Nadu all the time?

SHRI S. MUTHU MANI: Madam, I have not mentioned anything about Tamil Nadu.

THE DEPUTY CHAIRMAN: Please sit down. Mr. Minister. होम मिनिस्टर साहब, आप बोल दीजिए ताकि रिलेवेन्स हो जाए उसकी।

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN): Madam, this Bill which in fact should have been properly named as the Amendment to the Sixth Schedule to the Constitution, has been mainly responsible for the confusion of some of the hon. Members and me too. I cannot possibly deny that aspect. The hon. Member, Shrimati Sushma Swaraj, and some other hon. Members raised some issues about 2088 of Sixth Schedule which gives certain discretionary powers to the Governor to consult the ADC as well as the State Government. The change which has been brought about is that we have made it mandatory rather than discretionary. What will be the effect is the main point which the hon. Members might be interested to know. In fact, the whole scheme of the proposal is that we would like to see that there is least interference in the working of the Autonomous District Council and they should be full partners in whatever duties have been entrusted to them by amending the Sixth Schedule. But, if our experience shows that by this mandatory provisions the powers which the Government has given both to the Karbi Anglong District and the North Cachar Hills District, are going to be counter productive, might be, at that stage, we will again restore the same position which is obtaining today to make it discretionary rather then mandatory. Mandatory is only for a limited purpose of consultation. If it is a policy issue on which consultations with both of them are absolutely necessary, it will be mandatory on the part of the Governor not only to go by the advice given by the ADC but also go by the advice given by the State Government. Both of them should be consulted properly. Thereafter, the Governor can use whatever discretion he has. This is the only point that we wanted to emphasis.

As far as the second issue regarding article 244A is concerned, it provides for an autonomous State with Assam. We have been discussing the matters with them. We thought it necessary that the

* Not Recorded.

unity of Assam should not be affected adversely and let the tribals have all the powers which are necessary, but at the same time, Assam should not be disturbed. That is why we have made it absolutely clear that it is not the Statehood which is going to be granted, it is the Autonomous District Council with greater autonomy which is being proposed and they have been given legislative, administrative and financial powers. It has been stated in the Schedule and the Bill as to what are the subjects which have been transferred to them and under those subjects they will have the legislative functions to perform and they will be doing so.

Then one more question was raised. I am sorry I was not here. I had to go to Lok Sabha. In Lok Sabha I was on an issue which is still going on. I had to rush to this House. I had promised that when this Bill would be taken up I would try to be present in the House.

Unfortunately, this came up in both the Houses simultaneously. That is why I asked one of my colleagues to stay there. I will reply to this and then go back. Madam, the question which has been raised again is regarding the ultimate total amount that is going to be transferred to the Autonomous Councils. A memorandum of understanding has been signed by the State Government and the Autonomous Councils in my presence. I stand guarantee to it. Whatever is contained in the memorandum of understanding, if it is violated, I will be responsible. It will be my responsibility to see that the financial powers are exercised by the Autonomous Councils. I believe, every year a certain amount out of the total amount of the State will be given to them. These powers will be exercised directly by the District Administrative Units—autonomous units. They will be given all these powers. Besides this, they will be entitled to get whatever additional amount the State Government was giving. Both, the power and the money will be available to them and they will have full authority to legislate and also exercise administrative authority to spend the money on developmental schemes so that the discontent that we find amongst the Adivasis and the tribals is removed to the extent possible. If these powers are transferred to them and if they are satisfied, this kind of unrest and insurgent activities that we find the certain areas can be curtailed. There will be no scope for them and that is exactly the purpose for which all these powers have been given to them. I think, these were the two issues that were raised...*(Interruptions)*... I wanted to avoid saying anything about it. But the hon. Member has raised the issue whether the powers that have been given to the Autonomous District Councils would be extended to other district autonomous councils. I think, at this stage, we do not propose to extend these powers to anyone else. It is restricted to these two Autonomous Councils. Ultimately, it depends upon the relationship that exists between the State Governments and the autonomous councils. If, in a proper spirit, money which has been given by the Government of India and to which they are entitled is passed on to the autonomous councils without any delay and an atmosphere of confidence is created, I am sure, none of the district autonomous councils would be interested in asking for these powers merely because they have been given to Karbi Anglong and the North Cachar Hills. But that kind of spirit of confidence will have to be created. The Chief Minister of Assam readily agreed to giving all the subjects to them. He agreed to passing all the powers to them including the legislative and financial powers. I am quite sure that an appropriate atmosphere will be created not only in the case of these two autonomous councils, but also in the case of other councils. The State Government should be prepared to extend all support, which, in fact, is called for, for the development of autonomous councils.

with this, Madam, I conclude.

SHRI HIPHEI: None of the points that I had raised have been clarified. For example, the Nominated Member is to hold office at the pleasure of the Governor. According to the present provision, the Nominated Member of the District Council is to hold the office at the pleasure of the Governor of the State. This point has not been clarified. That is one point, Madam. Another point is what the Home Minister has said. This can easily be done according to para 6 (2) of the Sixth Schedule of the Constitution, where it clearly says:—

> "The Governor may, with the consent of any District Council, entrust either conditionally or unconditionally to that Council or to its officers functions in relation to agriculture, animal husbandry, community projects, co-operative societies, social welfare, village planning or any other matter to which the executive power of the State extends."

Now, this last sentence "to which the executive power of the State extends" has been substituted by "to which the District Council has power to make law". Now, if these two powers, the executive power and the legislative power, of the District Council are included here in this sentence... *(Interruptions)* Today, the State Government of Assam has nothing to bring this amendment to the Parliament. It will be purely within the power of the State Government. So, instead of bringing forward long amendments, if these two sentences are added here in Para 6 (2)... *(Interruptions)* Madam, I have practical experience. So, it may kindly be taken into consideration.

The third point is that the head of the District Council is called the Chief Executive Member. If the Chief Executive Member does not enjoy the confidence of the majority of the Members, the District Council cannot be dissolved. The District Council cannot be dissolved unless an inquiry commission is appointed under para 14 and only on the recommendation of the inquiry commission the District Council can be dissolved. This is very undemocratic. So, until the State Government appoints the inquiry commission, even if the Chief Executive Member does not enjoy the confidence of the majority of the Members in the District Council, he can continue as long as the State Government is willing. So, this is also defective. If para 6(2) is to be amended, these three points may kindly be kept in mind. Then only these problems will be solved. Otherwise, here we make amendments and we do not know what the practical problems are there. We are making laws without knowing the practical problems there. So, those three points may kindly be taken into consideration.

SHRI S.B. CHAVAN: So far as provisions relating to nominated Members are concerned, we do not propose to make any change in the position that is obtaining. After gaining some experience, if it is found absolutely necessary, then certainly at that stage we might consider it.

About the executive powers and the subjects which have been mentioned, I do not understand why you are asking for deletion of two sentences so that matters become absolutely clear. The Amendment to the Sixth Schedule clearly shows what the subjects, that have been transferred to the autonomous council, are. And, legislative powers have also been given to them. That is the only thing which has been incorporated in the amendment that has been brought about. But, as I said, in the beginning it is a question which ultimately will go by the kind of atmosphere that is generated there. If both, the District Council and the State Government, are able to reach some kind of a confidence, thereafter these are matters which can be ignored and they will be able to fully enjoy all the powers which have been transferred to them. I would tell the hon. Member, it is

all right that he is asking the clarification, but when he goes back he should also help in creating that kind of atmosphere.

SHRI HIPHEI: My only point is that the executive power and legislative power of the State extended to the District Council Areas can be easily given by the State Government, whether it is executive or legislative power, to the District Council Authority. I want to know whether these two lines are amended. So, my only point is whether it is executive or legislative power of the State extended to the District Council Area.

SHRI S.B. CHAVAN: The Memorandum of Understanding was reached to in my presence and the State Government has been able to pass a resolution. They have passed a resolution and they have agreed for transfering all those subjects. Now you want that you should have some kind of statutory authority. I don't think, having agreed to, there is any reason for doubting whether the State Government will be doing the same thing or we will depart from it. It is a matter which should not be created unnecessarily. No suspicion is necessary on the basis of confidence. I am quite sure that they will be able to exercise all these powers.

SHRI BHUBANESWAR KALITA: The point which still remains is the confidence of the Chief Executive Member who is the head of the Autonomous Council. He cannot be removed until and unless an enquiry commission is set up by the State Government. Even if he loses majority in the Autonomous Council, you cannot remove him until and unless a commission is set up. So, this is something which is not democratic. This point has not been clarified by the hon. Home Minister.

SHRI S.B. CHAVAN: I don't know in what context the hon. Member is saying all this. If this is a District Autonomous Council and if a democratic procedure is to be followed, I don't understand, in spite of the fact that he has lost the majority, why we should not have such kind of provision that he cannot be removed.

SHRI BHUBANESWAR KALITA: That provision is not there.

SHRI S.B. CHAVAN: That provision is not there and not there purposely. In fact, when the Executive Chairman is not enjoying the confidence of the elected Members or nominated Members, there is no reason as to why he should also try to continue. He will have to tender his resignation and thereafter give it to the new person who will be elected in his place.

श्रीमती सुषमा स्वराज: महोदया, गृह मंत्री जी बाद में.....मुझे एक सवाल पूछना है।

THE DEPUTY CHAIRMAN: Mr. Home Minister, what they are trying to say and what they have actually understood from the provision in the Bill is that even if the Chairman of the Executive Council loses majority, he cannot be removed until and unless the State Government moves no-confidence motion or set up an enquiry committee against him. So, they say that the State Government comes into picture and not the Members of the Council. that is the point on which they are asking clarification.

SHRI S.B. CHAVAN: I cannot possibly say anything off hand on this. I will have to go through it.

श्रीमती सुषमा स्वराज: महोदया, मैंने एक बहुत बुनियादी मुद्दा उठाया था जब गृह मंत्री नहीं थे। पता नहीं नोट्स में आपको पास हुआ या नहीं कि जिन उद्देश्यों को लेकर जिला परिषदों का गठन किया गया था, छठी सूची बनाई गई थी, आज 45 साल हो गए संविधान को लागू हुए, क्या आपने कभी समीक्षा करवाई कि उन उद्देश्यों की थोड़ी बहुत भी पूर्ति हुई? जो पैसा आप यहां से भेजते हैं, एक मैनडेटरी प्रोविज़न है कंस्टीट्यूशन का, मैंने पढ़ कर सुनाया था—छठी सूची का पैरा 20 का उप-पैरा 3 और 4 जिसमें सी०ए०जी० को ऑडिट करना होता है एकाउंट्स। वह एकाउंट्स की

रिपोर्ट सबमिट करनी होती है गवर्नर्स को। गवर्नर राज्यों की काउंसिल के सामने रखता है। क्या आप महज़ इतना दिखवाएंगे कि आज तक कितनी बार सी०ए०जी० ने उसको ऑडिट किया? कितनी बार वह रिपोर्ट गई है? मैं पूरी प्रामाणिकता के साथ कह सकती हूं कि सी०ए०जी० की तरफ से ऑडिट होता नहीं है, गवर्नर्स को रिपोर्ट जाती नहीं, वे काउंसिल के सामने रखते नहीं हैं। इसलिए मैंने सुझाव भी दिया कि चूंकि यह पैसा कंसोलिडेटिड फंड से जाता है, इसलिए बजाए गवर्नर को रिपोर्ट देने के, यह रिपोर्ट पार्लियामेंट के सामने आनी चाहिए। अगर आप यह तय कर दें कि यह रिपोर्ट पार्लियामेंट के सामने आएगी तो चार पैसे वहां खर्च भी हो जाएंगे और विकास भी हो जाएगा वरना आप कितना भी पैसा वहां भेजते रहिए, विकास के नाम पर कुछ वहां दिखाई नहीं पड़ता है। बेशक आप चले जाएं या अपना कोई प्रतिनिधि वहां भेज दें, विकास दिखता नहीं है। विकास के नाम पर आपको पूर्वोत्तर में इतनी भी चीज़ दिखाई नहीं देगी डिस्ट्रिक्ट काउंसिल बनने के बाद भी, यह मेरा बुनियादी प्रश्न था डिस्ट्रिक्ट काउंसिल को लेकर।

SHRI S.B. CHAVAN: Madam, the point raised again by the hon. Member, Smt. Sushma Swaraj is very correct. But, at the same time, I must say that the Central Government and the Parliament have nothing to do with it. Actually this is an understanding between the State Government and the District Autonomous Council. As far as the accounts of the State Governments are concerned, they are being audited by the AGs concerned. I am sure, this also forms part of the same area and at least my understanding of the problem is that under the provisions which have already been transferred to them, if moneys that are given are not properly accounted for, then there is something serious. Certainly, I do not think that is the understanding. The understanding is, as the State Government is subjecting itself to the audit of the AG, similar kind of situation will prevail. This is only that the district's schemes have been transferred to them. But it does not mean that their accounts are not going to be audited. Accounts are going to be audited. I do not know, I will have to find out from the Law Ministry as to whether it will have to be submitted to the State Government because again, on that issue, there is bound to be some misunderstanding that their powers have been curtailed and audited statements are being placed in the State Legislature in stead of the District Autonomous Council. I will have to check up. I am not sure about it.

श्रीमती सुषमा स्वराज : डिस्ट्रिक्ट एटॉनमस काउंसिल का यह सवाल नहीं है, वहां के गवर्नर ही डील करते हैं डिस्ट्रिक्ट काउंसिल के साथ और सी०ए०जी० की रिपोर्ट है, मैंने पढ़कर सुनाया था, वरना स्टेट का ऑडिट में कहीं भी डिस्ट्रिक्ट की जो एडमिनिस्ट्रेटिव बॉडी है, उनका सी०ए०जी० ऑडिट नहीं करता। उनके बारे में छठे शैडयूल में सीधे लिखा है कि:— The Comptroller and Auditor General shall cause accounts of the district to be audited in such a manner as he may deem fit and the reports of the Comptroller and Auditor General relating to such accounts shall be submitted to the Governor who shall cause them to be laid before the Council. कहीं स्टेट गवर्नमेंट इसमें आती नहीं है, सर। "कंसोलिडेटिड फंड आर्टिकल 275(1) के तहत" कंसोलिडेटिड फंड से पैसा जाता है, गवर्नर डील करते हैं डिस्ट्रिक्ट काउंसिल को। यह आपस का अरेंजमेंट नहीं है, इसलिए आप इसको दिखा दीजिए, यह सीधे-सीधे हम लोगों की तरफ से पैसा जाता है। *(Interruptions)*

SHRI JAGESH DESAI (Maharashtra): After the explanation we can see. *(Interruptions)*

श्रीमती सुषमा स्वराज : मैं तो पुरानी बात कर रही हूं।

SHRI S. JAIPAL REDDY (Andhra Pradesh): Sushmaji happens to be the first lady in that part of the country speaking from first hand knowledge. Her observation must be taken more seriously! *(Interruptions)*

THE DEPUTY CHAIRMAN: The accounts were not submitted to her husband, it seems! *(Interruptions)*

The question is that the Sixth Schedule of the Constitution (Amendment) Bill, 1995 be taken into consideration. *(Interruptions)*

श्री संघ प्रिय गौतम (उत्तर प्रदेश): उपसभापति जी, मेरा एक व्यवस्था का प्रश्न है। यह बहुत महत्वपूर्ण विधेयक है, सारा सदन इससे सहमत है, लेकिन पहले यह ऐसर्टेन कर लीजिए कि 50 प्रतिशत सदस्य उपस्थित हैं या नहीं और मैं समझता हूं कि नहीं हैं। ...**(व्यवधान)**... मुझे कह लेने दीजिए अपनी बात। ...**(व्यवधान)**...

उपसभापतिः यह कांस्टीट्यूशन अमेंडमेंट बिल नहीं है। ...**(व्यवधान)**...

Do not get agitated. I will tell. Let us have peace. It is not a Constitution amendment Bill. It is a Bill to the Sixth Schedule which does not require the presence of half the members and two—thirds majority voting. We have ascertained that.

SHRI JAGDISH PRASAD MATHUR (Uttar Pradesh): The title should be changed.

उपसभापतिः टाइटल चेंज करा दीजिए।

Please get the title changed. ...*(Interruptions)*... It is going to the Lok Sabha.

श्री के० आर० मलकानी (दिल्ली): दो मिनट पहले मिसेज आल्वा बाहर लॉबी में कह रही थीं कि अंदर चलिए 50 फीसदी उपस्थिति की जरूरत है और अब कह रही हैं कि नहीं है। **(व्यवधान)**

SHRI S. JAIPAL REDDY: Madam, I am on a point of order. ...*(Interruptions)*... I am on a point of order in favour of Mrs. Alva. What she said in the Lobby should not be quoted here...*(Interruptions)*...

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRIMATI MARGARET ALVA) (Maharashtra): Madam, ...*(Interruptions)*...

SHRI VIREN J. SHAH (Maharashtra): The matter mentioned in the Lobby should not be mentioned in the House. Shri Malkani accepts it...*(Interruptions)*...

SHRIMATI MARGARET ALVA: Madam, when I was going round...*(Interruptions)*.

AN HON. MEMBERS: Why do you mention things which are said in the Lobby?

SHRIMATI MARGARET ALVA: In any case, Madam, I was only counting heads for the next Constitutional Amendment Bill which is to be moved, which is a regular Constitutional Amendment on Land Reforms being brought into the Ninth Schedule. For that we require fifty per cent before it could be introduced. I was making sure that we are fifty per cent of the total membership in the House...*(Interruptions)*... That is the next one in the list...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Now, please everybody keep quiet so that we can start...*(Interruptions)*... whether we are half or one-third.

Now, the question is:

"That the Bill further to amend the Constitution of India in its application to the State of Assam, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN: Now, we shall take up clause-by-clause consideration of the Bill.

Clause 2 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P.M. SAYEED: Madam, I move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE INDIAN TELEGRAPH (AMENDMENT) BILL, 1995

THE DEPUTY CHAIRMAN: Now, we shall take up the Constitution (Eighty-first) ...*(Interruptions)*...

AN HON. MEMBER: Is the Minister withdrawing the Indian Telegraph (Amendment) Bill?

THE DEPUTY CHAIRMAN: He is not moving. There is no question of withdrawal.

SHRI S. JAIPAL REDDY (Andhra Pradesh): Why is he not moving? ...*(Interruptions)*... We do not know why he is not moving.

SHRI M.A. BABY (Kerala): Why this withdrawal?

THE DEPUTY CHAIRMAN: There is no withdrawal. There is a movement ...*(Interruptions)*...

SHRI G. SWAMINATHAN (Tamil Nadu): Why was it listed in the Business of the House? ...*(Interruptions)*... It has already been listed. Once it is listed, he has to move it or he should say, "I withdraw it."...*(Interruptions)*...

THE MINISTER OF STATE OF THE MINISTRY OF COMMUNICATIONS (SHRI SUKH RAM): Madam, I want some time for moving this Bill because various viewpoints have been expressed by some of the hon. Members of this House. I do not know to which extent I can meet those points. I want time for reconsideration and then I will come before this House.

SHRI S. JAIPAL REDDY: First of all, Madam, I would like to state on record that we are not opposed to this Bill. We were of the view that the Bill was not going far enough, It is good that the Minister agreed in principle to see that the scope of the Bill is expanded. But, Madam, there is a catch, the catch is this. A lot of things will have been done before the next integrated Bill is brought forward.

AN HON. MEMBER: Not Ordinances?

SHRI S. JAIPAL REDDY: Not Ordinances. Orders will have been passed. I have no problem with Ordinances. I have problem with orders. Madam, this policy, the National Telecom Policy Statement was made in the House in May 1994. This House has not discussed it. At that time the policy talked of only induction of Indian Registered Companies and without taking Parliament into confidence, so many guidelines have since been issued to allow entry of foreign companies up to 49 per cent as to say that any company which had filed a bid might have experience with five lakhs telephones. That any foreign company which is a holding company, which is a subsidiary of a holding company, having experience of five lakhs telephones should be considered an experience. All these things have been brought in behind the back of Parliament. Now, the financial bids are to be opened. Once the financial bids are opened the genie will be out, it will not be under the control of the Minister or us. Our entire claim is, the Telecom Regulatory Authority of India must be brought into being as a condition precedent, as a prime prerequisite for privatisation and the Minister is